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THE ADMINISTRATION OF JUSTICE IN THE CANAL ZONE*

WE ARE perhaps wont to think of the Panama Canal as having involved only engineering problems of dredging, erecting gigantic lock gates, constructing a huge dam across a valley and cutting a great deep cut through the continental divide. These were great problems, but problems whose execution required a great many skilled and unskilled laborers. Homes, stores, schools, churches and everything to which a modern civilization entitles the laborer had to be provided for his comfort and convenience. A strip of land ten miles wide and fifty miles long with a native and canal building population of about 75,000 people, with the daily influx of some 20,000 laborers from the adjoining cities of Colon and Panama, necessitated a well organized and well ordered administrative machine with laws and courts for their enforcement. So that the lawyer was called upon to play a large part in this great work.

The legal history of the Panama Canal, at least from the legislative standpoint, begins with the enactment by Congress of the Spooner Act, providing for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans. This Act was approved on June 28, 1902, and authorized the President to acquire for the construction of a canal such strip of land between

*EDITORIAL NOTE: The author of this article was for some years Prosecuting Attorney of the Canal Zone, and later, upon the permanent organization of the government of the Zone, served as the first District Attorney, a position from which he has but recently resigned. But for his modesty he might well have added, in connection with his account of the remarkably efficient administration of law in the Canal Zone, "*Quorum pars magna fui.*"

the Carribean Sea and the Pacific Ocean as might be deemed necessary for the purpose of constructing and maintaining a ship canal, and to make such police and sanitary rules and regulations as might be necessary to preserve order and protect public health thereon, and to establish such judicial tribunals as may be agreed upon, and to enforce such rules and regulations. This Act created the Isthmian Canal Commission of seven members, through whom the President was directed to cause the canal to be constructed.

The Spooner Act was followed by the treaty between the Republic of Panama and the United States, ratification of which was exchanged at Washington on February 26, 1904. This treaty defines the rights of the United States in the Canal Zone. Article 3 of this treaty is as follows:

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

It is this article granting sovereign rights to the United States within the limits of the Canal Zone which caused Congress to pass an act providing for the temporary government of the Canal Zone, which act was approved by the President on February 28, 1904. Section 2 of this Act is as follows:

"That until the expiration of the fifty-eighth Congress, unless provision for the temporary government of the Canal Zone be sooner made by Congress, all the military, civil, and judicial powers as well as the power to make all rules and regulations necessary for the government of the Canal Zone and all the rights, powers, and authority granted by the terms of said treaty to the United States shall be vested in such person or persons and shall be exercised in such manner as the President shall direct for the government of said Zone and maintaining and protecting the inhabitants thereof in the free enjoyment of their liberty, property, and religion"

The representatives of the United States took actual physical possession of the Canal Zone and the properties of the French Canal Company and the Panama Railroad Company on May 3, 1904. The President of the United States in execution of Section 2 of the Act of Congress last above referred to, in a letter to the Secretary of War, dated May 9, 1904, placed the Isthmian Canal Commission under the supervision and direction of the Secretary of War and defined the powers and duties to be exercised in carrying out the purpose of the United States in acquiring the Canal Zone. This letter of May 9, 1904, was always referred to in the legal work affecting the Canal Zone as the "Canal Zone Bill of Rights." This letter, among other things, contains the following provisions:

"The inhabitants of the Isthmian Canal Zone are entitled to security in their persons, property, and religion, and in all their private rights and relations. They should be so informed by public announcement. The people should be disturbed as little as possible in their customs and avocations that are in harmony with principles of well ordered and decent living.

"The laws of the land, with which the inhabitants are familiar, and which were in force on February 26, 1904, will continue in force in the Canal Zone and in other places on the isthmus over which the United States has jurisdiction until altered or annulled by the said commission, but there are certain great principles of government which have been made the basis of an existence as a nation which we deem essential to the rule of law and the maintenance of order, and which shall have force in said zone. The principles referred to may be generally stated as follows:

"That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense; that excessive bail shall not be required nor excessive fines imposed, nor cruel or unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense, or be compelled in any crim-

inal case to be a witness against himself; that the right to be secure against unreasonable searches and seizures shall not be violated; that neither slavery nor involuntary servitude shall exist except as a punishment for crime; that no bill of attainder or ex post facto law shall be passed; that no law shall be passed abridging the freedom of speech or of the press, or of the rights of the people to peaceably assemble and petition the government for a redress of grievances; that no law shall be made respecting the establishment of religion or prohibiting the free exercise thereof."

In a way, this letter is the Constitution of the Canal Zone, and after enumerating certain fundamental principles of law to govern in this strip of land, the President conferred upon or delegated certain legislative authority to the Isthmian Canal Commission created by the Spooner Act. This provision is as follows:

"The commission may legislate on all rightful subjects of legislation not inconsistent with the laws and treaties of the United States so far as they apply to said zone and other places, and the said power shall include the enactment of the sanitary ordinances of a preventive or curative character to be enforced in the cities of Colon and Panama and which are contemplated and authorized by Article 7 of said Canal Convention. Such legislative power shall also include the power to raise and appropriate revenues in said zone; and all taxes, judicial fines, customs duties and other revenues levied and collected in said zone by or under the authority of said commission shall be retained, accounted for, and disbursed by said commission for its proper purposes. The members of said commission to the number of four or more shall constitute a legislative quorum, and all rules and regulations passed and enacted by said commission shall have set forth as a caption that they are enacted by the Isthmian Canal Commission 'by authority of the President of the United States.'"

COURTS OF THE CANAL ZONE.

In accordance with this legislative authority granted by the President, the Isthmian Canal Commission enacted certain laws. The first of these laws created a judicial and administrative system for the proper governing of the Canal Zone. We are interested alone at this time in the judicial system created by this

Act. It consisted of municipal courts with jurisdiction similar to that exercised by city municipal courts and by justices of the peace, that is, with jurisdiction in civil cases where the amount involved did not exceed \$100.00 and in criminal cases where the offense charged was a misdemeanor. The municipal judges also acted as committing magistrates. The Canal Zone was divided into three circuits with a circuit court and a circuit judge for each circuit. The circuit courts were courts of general jurisdiction in all civil and criminal matters not cognizable in the municipal courts. The act created a Supreme Court whose members were the three circuit judges sitting *en banc*. The Supreme Court corresponded very closely to the Supreme Court of a state or territory and heard appeals from the circuit courts, and had authority to issue extraordinary writs. As a matter of practice, the member of the Supreme Court who had been the trial judge in a case did not sit in its determination on appeal, and the case was decided by the other two members of the court. The decision of the Supreme Court of the Canal Zone was final. Congress had not seen fit to vest in any of the courts of the United States, district, circuit, circuit court of appeals or Supreme Court, any jurisdiction over cases arising in the Canal Zone. The President of the United States could not by executive order confer upon any of the courts of the United States any jurisdiction, original or appellate, in Canal Zone matters, even though he could create courts in the Canal Zone and define their jurisdiction. It was attempted early in the history of the Canal Zone to take a criminal case into the Supreme Court of the United States. One Adolphus Coulson had been convicted of murder and sentenced to be hanged. The conviction by a circuit court of the Canal Zone was affirmed by the Supreme Court of the Canal Zone. Attorneys for the defendant attempted to remove this case to the Supreme Court of the United States. They resorted to a writ of error. The Supreme Court in a memorandum opinion dismissed the writ of error for want of jurisdiction.¹ At the same time the defendant made application for leave to file petitions for writs of habeas corpus and certiorari. The mo-

¹ Coulson v. Canal Zone, 212 U. S. 553.

tion was denied.² This ended any attempt on the part of the lawyers to get the courts of the United States to assume jurisdiction of Canal Zone cases, and the Canal Zone courts continued as the final tribunal in all matters coming before them, until the permanent government of the Canal Zone was organized on April 1st, 1914.

This Act also provided for the appointment of a prosecuting attorney for the Canal Zone with the duties usually pertaining to such officer.

CRIMINAL CODE AND CODE OF CRIMINAL PROCEDURE.

The Act creating this judicial system was dated August 6, 1904, and during the succeeding months various other laws were enacted by the Isthmian Canal Commission, principally administrative in character. Under date of September 3, 1904, the Isthmian Canal Commission enacted a Penal Code and under date of March 1, 1905, a Code of Criminal Procedure for the Canal Zone. These two codes governed the courts in all criminal cases. It may be interesting to note in this connection that these codes are patterned very largely after the laws of California. It seems that when similar codes were enacted for Porto Rico, upon the advent of American administration there, the California laws were used as a model; and that in the preparation of such laws for the Canal Zone the same plan was followed.

CODE OF CIVIL PROCEDURE.

In addition to the Criminal Code and Code of Criminal Procedure above referred to, a Code of Civil Procedure of the Canal Zone was prepared under the direction of the Isthmian Canal Commission and was promulgated and became law as an executive order of the President of the United States under date of March 22, 1907. This Code of Civil Procedure, as its name indicates, was intended to be limited almost exclusively to matters of procedure; but it necessarily introduced some substantive law. This Code was also copied or modeled after the California Code of Civil Procedure.

² *Matter of Coulson, id.*

The government of the Canal Zone was left by Congress almost exclusively and entirely to the President. As has been seen, he delegated a portion of his legislative authority to the Isthmian Canal Commission. This authority was only exercised by the Isthmian Canal Commission in the early days of the Canal construction.

From time to time, as the occasion demanded or as experience dictated the necessity therefor, the President was called upon to issue other and further executive orders making new laws applicable to the Canal Zone. Congress enacted very few laws that in any way affected the Canal Zone, and these as a rule were riders attached to appropriation bills. The Canal Zone, therefore, during the construction period, was territory of the United States under the control of the executive. Its law consisted of executive orders signed by the President. In the President were combined both the executive and legislative functions. It might even be said that to a certain extent judicial functions were vested in him; but, as has been indicated above, he created courts, to whom the judicial functions were delegated.

The Isthmian Canal Commission had been created by the Spooner Act; but the President was given authority to define its powers, duties and functions. It was soon discovered that a seven-headed commission did not lend itself readily to an effective solution of the administrative problems confronting the President in digging the canal. It was a work admitting of no division of responsibility. With the advent of the army engineers as members of the Isthmian Canal Commission, the Commission as such was largely shorn of its powers; and thenceforth, by executive order of the President, there was no division of the responsibility, and executive responsibility for the whole work was centered in the chairman and chief engineer. In fact, as the representative of the President, he performed and exercised the functions ordinarily belonging to a governor. He exercised the power of pardon and commutation.

DEPORTATION.

The President's order of May 9, 1904, had conferred upon the Commission:

“ * * * Power to exclude from time to time from the Canal Zone and other places on the Isthmus, over which the United States has jurisdiction, persons of the following classes who were not actually domiciled within the Zone on the 26th day of February, 1904, viz: idiots, the insane, epileptics, paupers, criminals, professional beggars, persons afflicted with loathsome or dangerous contagious diseases; those who have been convicted of felony, anarchists, those whose purpose it is to incite insurrection and others whose presence it is believed by the Commission would tend to create public disorder, endanger the public health or in any manner impede the prosecution of the work of opening the canal; and may cause any and all such newly arrived persons or those alien to the Zone to be expelled and deported from the territory controlled by the United States. * * * ”

In 1908 this power granted to the Commission fell upon the Chairman and Chief Engineer. The work of the canal, so stupendous in its character, drew from all parts of the world laborers of every nationality. As an evidence of the cosmopolitan character of the population the police reports each month would indicate the arrest of members of approximately twenty-five different nationalities. It was inevitable that undesirables should find their way into the Canal Zone, and this power of deportation so wisely conferred by the President upon the executive head of the Canal Zone government was one of the most salutary influences for the preservation of order within the Canal Zone. It was a power which was not abused, but nevertheless was an ever ready weapon with which to meet any foment of trouble.

Under this authority it has been the practice in the Canal Zone to deport all persons convicted of felonies after they have served their sentence in the Canal Zone penitentiary. Deportation consisted in placing the person to be deported aboard a steamship bound for his native country with his cost of transportation prepaid by the Canal Zone government. In order to render deportation most effective in ridding the Canal Zone of undesirables, an executive order was issued making it criminal for one deported to return to the Canal Zone.

EFFICIENCY OF THE GOVERNMENT.

The Canal Zone government has often been termed a benevolent despotism. Perhaps it may not be amiss to say that that form of government—be it a benevolent despotism or otherwise—which in practice insured to all the full reward of their merit, and administered the laws, not with severity, but with unflinching certainty: a government free from graft and corruption; may not have been altogether undesirable. In a constructive work of such magnitude it was inevitable that new problems should arise from time to time—problems requiring energetic solution. Only a government by executive order could be sufficiently elastic to safeguard the interests of the United States. This may be well illustrated by one or two situations which arose. After a smoothly working labor organization for the Canal work had been perfected contractors for railroad work in Brazil decided that they would use the Canal organization as a place for recruiting laborers to undertake their work in Brazil. Recruiters of labor came to the Canal Zone and made rosy promises as to pay and conditions of labor, and naturally they found a ready response. Several ship loads of laborers, both skilled and unskilled, left the Canal Zone. To have permitted a continuance of this recruiting would have soon disorganized the Canal Zone labor force, and have entailed not only great expense on the United States in replacing it, but would have delayed canal construction. Many of these laborers had been brought by the government, at great expense, from the United States, the West Indies and Spain. The President was asked to issue an executive order making it a crime to recruit laborers from the employees of the Panama Canal. This executive order was issued and immediately put in effect to stop recruiting. The administrative officials of the Canal Zone were not left to the mercy of slow moving legislative bodies for laws which would meet such an emergency. Government by executive order provided an instantaneous remedy.

Another conspicuous instance where a one man form of government was especially effective, arose out of a case in the courts.

A locomotive engineer, in running his train across the Isthmus, disregarded a torpedo signal, with the result that his train crashed into the rear end of a train which he was following and killed the conductor. The prosecuting attorney filed an information against this engineer charging him with manslaughter. There was also some testimony to show that the defendant at the time of the collision was somewhat under the influence of liquor. He was tried and convicted, and on appeal the Supreme Court of the Canal Zone affirmed the judgment of the trial court.³ The defendant was sent to the Canal Zone penitentiary and began serving his sentence. The railway employees organization of which he was a member took the matter up most actively and demanded the immediate release of their brother locomotive engineer. They served notice on the Chairman and Chief Engineer that unless their demand was acceded to they would tie up all canal work. This attempt at coercion found little favor with the Chairman and Chief Engineer. He informed the men that the courts had acted on the case, and that if they desired to present a petition for pardon they could do so, and the matter would receive consideration in due course. They were told, however, that any man who failed on the following morning to be at his post of duty at the usual time, on account of this defendant not being released from the penitentiary, would no longer have any job with the Panama Canal, and he and his family would leave the Canal Zone on the very next boat. This was not a threat: it was the statement of a situation by one with the power to meet it just as he had said he would. It is not reported that there was any shortage of railway employees on the following day to carry on the canal work:

THE MENA CASE.

One of the most interesting cases which ever came before a court of the Canal Zone for its adjudication arose on application for a writ of habeas corpus by Gen. Luis Mena. The decision of Judge Thomas E. Brown of the Canal Zone Supreme Court shows very clearly the legal status of the Canal Zone as territory under executive control. Gen. Luis Mena was at the

³ Canal Zone *v.* Longh, 2 Canal Zone Sup. Ct. Rep. 74.

head of a revolutionary movement against the constituted government of Nicaragua. For the protection of American interests and the American legation, the armed forces of the United States were landed in Nicaragua and engaged in hostilities with the armed forces under the command of Gen. Mena. This conflict resulted in the surrender of Gen. Mena to the forces of the United States. He was placed aboard a United States war ship and brought to the Canal Zone where he was kept under surveillance by the Zone police, and was not permitted to leave the limits of the Canal Zone. In the very beginning of its opinion upon this case the court said :

"It has been held by this court that the Constitution of the United States does not of its own force carry its rights, privileges and limitations into the Canal Zone (*Canal Zone v. Coulson*). The President's right of action on the Zone therefore is not limited by Constitutional limitations. He is undoubtedly vested with larger right, authority and power here than in any other territory controlled by the United States. He has absolute authority in the absence of congressional legislation to legislate for the Zone."

As it has been heretofore pointed out, the President of the United States had already exercised his powers within the Canal Zone by the establishment of an orderly government there through persons delegated and authorized to that end: he had promulgated a system of law; controlled the conduct and defined the rights of the inhabitants therein and had instituted courts and appointed judges clothed with full power and authority to administer justice. Among the rights granted under the presidential bill of rights, as contained in his letter of May 4, 1904, was the right to the writ of habeas corpus.

The court in its opinion quoted from the opinion of Chief Justice Marshall in the case of *Marbury v. Madison*,⁴ to show that under the Constitution of the United States the President of the United States was invested with certain important political powers, in the exercise of which he is to use his own discretion and is accountable only to his country in his political character and to his own conscience. As to such matters the acts of the President

⁴ 1 Cranch 137.

of the United States are political and discretionary and not subject to judicial review. The court said:

"Among such international matters are included the use or the display of force as a means of constraint to insure observance of rights in countries where the courts of justice are uncertain or where the political conditions are disturbed."

And further:

"It is further apparent that when the executive landed armed forces in Nicaragua for the purpose of protecting the American Legation and the interests of the United States, it was within his sovereign authority and duty to employ such other means in his discretion as would promote the restoration of good order and conserve the interests of the United States until such time as good order should be restored. Such right would seem to carry with it the authority to take as a prisoner any person, who, in the executive's judgment or in the judgment of his agents, was engaged in hostilities with the armed forces of the United States, and the further authority, if such person's continued presence in Nicaragua was deemed inimical to the restoration of order, to expatriate such person temporarily with or without such person's consent. It would follow that the Chief Executive, acting in his best discretion, would seem to have the authority to transport such person to any territory *strictly under executive control* and there place him under such restraint and surveillance as would prevent him from returning to the country from which he had been carried as a prisoner until such time as the President in his best judgment and discretion should deem such return not inimical to the conservation of good order or to the international interests of the United States."

In concluding, the court held that since the Canal Zone was territory exclusively under federal jurisdiction, which jurisdiction was not limited by Constitutional provisions, and that therein the President himself was endowed with all the powers of government, that when the President, by his executive order of May 9, 1904, declared that the inhabitants of the Canal Zone should have the benefit of the writ of habeas corpus, that he did not intend thereby to so limit his Constitutional authority as to deprive himself of his power to perform his sovereign duty in international relations. The court held that it was without ju-

risdiction to grant the writ, and the applicant was remanded to the surveillance of the Chief of Police of the Canal Zone.⁵

CONTINUANCE OF THE LAWS OF COLOMBIA.

The President's letter of May 9, 1904, declared that the laws of the land with which the inhabitants were familiar should continue to be the law of the Canal Zone. This meant that the laws of Colombia in force and effect at the time of the revolution which resulted in the creation of the Republic of Panama became the laws of the Canal Zone. The subsequent enactment by the Isthmian Canal Commission of a Criminal Code and Code of Criminal Procedure entirely abrogated the Colombian law in criminal cases; so that it may be said, for practical purposes, that the criminal laws of the Republic of Colombia were never administered in the Canal Zone. The enactment of the Code of Civil Procedure in 1907 introduced many rather anomalous legal situations. It left intact a large part of the law of Colombia as the substantive law of the land, but at the same time introduced many features from the common law which were unknown to the civil law. The majority of the lawyers practicing before the Canal Zone courts were lawyers trained in the common law; so that, while the Canal Zone courts administered Colombian law when it was presented to them, yet in the absence of such presentation the principles and precedents of the common law were often resorted to. It has always been a question whether the continuance of the Colombian law as the substantive law of the Canal Zone was not of doubtful propriety. In less than half the time required for the construction and completion of the Panama Canal the Canal Zone became intensely American, with a large American colony; and it was destined, with the opening of the Canal, to become even more American. It has seemed that the promulgation or extension to the Canal Zone of the principles of the common law would have seemed advisable. The Colombian codes of law embodied the principles of the civil law as distinguished from the common law. The sources of the law administered in the Canal Zone may be thus summarized:

⁵ *Ex parte Mena*, 2 Canal Zone Sup. Ct. Rep. 170.

Treaty of February, 1904, between United States and Panama.

Acts of Congress.

Executive Orders.

Ordinances of the Isthmian Canal Commission.

Penal Code.

Code of Criminal Procedure.

Code of Civil Procedure.

Colombian Codes.

TRIAL BY JURY.

Somewhat in keeping with the spirit of executive government, as distinguished from constitutional government, trial by jury was unknown during the early part of the Canal Zone operations. The trial judge passed upon all questions of law and fact and rendered his verdict accordingly. This applied to criminal as well as civil cases, with this one exception: in cases where the penalty of death or imprisonment for life could be inflicted, it was the duty of the circuit judge to summons two municipal judges of his judicial circuit to sit with him in the trial of such a case. If the municipal judges should be unable to attend, provision was made for calling in certain other officials, or ultimately simply two residents of the district. The circuit judge determined the questions of law in such cases, and the two inferior judges, associates, jurors, or whatever we may care to call them, had an equal voice with the circuit judge in passing upon questions of fact. A concurrence of any two of the three was decisive of the question passed upon. In actual practice this system of no jury trial in civil and criminal cases, except for capital offenses, proved eminently satisfactory, and conditions in the Canal Zone abundantly justified such a system. Justice was administered swiftly and with certainty. The records of the courts of the Canal Zone will show that in criminal cases the average time between the arrest of a person charged with a felony and his trial did not exceed two weeks. The government was saved the enormous expense incident to jury trials. Another condition which made such a system of trial by judge preferable to the jury system arose out of the fact that the only persons in the Canal Zone really qualified for jury duty were American citizens

employed on the Canal work. It would have resulted in serious disorganization of canal work to have been constantly calling on these employees to quit their work and sit in the jury box.

As a part of the same system the law made no provision for a grand jury. Informations were filed by the prosecuting attorney direct with the circuit courts, after examinations made by committing magistrates, or upon sworn testimony of witnesses given before him. There never was any reason for a grand jury in the Canal Zone; and it may be doubted whether the grand jury system is not an institution whose days of usefulness even in the United States are numbered. Persons charged with crime in the United States are often held in jail for months awaiting the action of a grand jury which convenes at infrequent intervals.

This system of absence of jury trials continued until February 6, 1908, when by executive order President Roosevelt extended the right of trial by jury to cases wherein the penalty by death or imprisonment for life might be inflicted. This executive order provided for a jury of twelve; but it was optional with the accused as to whether he should be tried by a jury of twelve or whether he should be tried by the circuit judge and two associates under the system existing prior to that time. Even after the issuance of this executive order very few defendants took advantage of it. It is curious to note that in actual practice the persons taking advantage of this right to trial by jury were Americans to whom, by reason of the strong probability of guilt, submitting their case to twelve men, seemed to offer a better chance of acquittal, by disagreement of one or more jurors, than submitting it to only three men. This extension of jury trial did not cover any civil cases or any criminal cases except capital offenses. As time went on, this system worked satisfactorily until a white American was charged by the prosecuting attorney with murder in the second degree, convicted and sentenced to the penitentiary. The case involved what is frequently termed the "unwritten law," and for that reason the defendant had many friends and sympathizers. They started an agitation which resulted in an executive order further extending the right of trial by jury. It was an order issued by President Wilson becoming effective on July 4, 1913, which extended the right to jury trial to all felony

cases. It is to be noted that a jury trial was not compulsory—it was a right which the defendant could demand. As food for thought in considering the reformation of criminal procedure throughout the United States, it is to be noted that in the actual operation of this executive order in the Canal Zone probably less than two per cent. of the defendants charged with felony asked for the jury trial. The vast majority of the defendants, guilty or otherwise, were willing that the trial judge should render a verdict in their cases unassisted by a jury. All civil and criminal cases ready for trial were disposed of in each circuit each week. A jury would not be summoned until a demand for such form of trial had been made.

STATUS OF THE CANAL ZONE.

The status of the Canal Zone as territory of the United States, or as territory under the jurisdiction of the United States, brought about many interesting legal situations. Congress, by an act approved March 2, 1905, declared the Canal Zone to be foreign territory in so far as the customs laws of the United States were concerned. In other words, an American sent to the Canal Zone by the United States to help in the construction work of the Canal, who at the end of a year should return to the United States on vacation, was required to submit to customs inspection upon entering the United States and pay duty on any articles brought in by him, just as if he might have been to Germany or any other foreign country.

The Federal laws of the United States, civil and criminal, were not applicable to the Canal Zone unless Congress made them so by specific reference. In a few instances Congress when enacting laws applicable to the United States as a whole made reference to the Canal Zone. The Mann White Slave Law was extended to the Canal Zone, and many prosecutions and convictions resulted thereunder. The Federal Employers' Liability Act of April 22, 1908, applied by its specific terms to every common carrier by railroad in the Panama Canal Zone.

The question frequently arose as to the status of residents of the Canal Zone in their application for naturalization papers.

The courts of the Canal Zone had no authority to entertain petitions for naturalization. The laws of the United States relative to residence outside of the United States proper but within territory subject to their jurisdiction did not refer to the Canal Zone. Many employees of the Canal had already filed their first papers in the United States, but had not obtained their second papers. It was contended by the Bureau of Naturalization of the Department of Commerce and Labor that persons having filed their first papers and not having obtained their second papers could not, after residence in the Canal Zone, obtain their second papers, because of lack of continued residence within the United States. American citizenship was a valuable asset to Canal employees, because they alone were entitled to vacation privileges and the Canal Zone medal awarded to employees with two years continuous canal service.

SANITATION AND SANITARY LAWS.

It has often been said that there has been no greater achievement in history than that of the sanitation of the Canal Zone and the adjoining cities of Colon and Panama. It was a land of deadly fevers, diseases and pestilence—perhaps the worst on the face of the earth. About four out of every five Frenchmen who came to the Isthmus during the efforts of the French to construct a canal died of disease. It took an extraordinary high character of bravery and determination for new men to stolidly face such a condition. The failure of the French may be attributed in large measure to their lack of knowledge of sanitation. Among the earliest acts of the Isthmian Canal Commission in 1904 were the creation of a department of health and the enactment of quarantine and sanitary rules and regulations. These laws recognized the recently established principle that malarial fever and yellow fever were transmitted by means of mosquitoes. These laws, more severe than the inquisition upon infidels and heretics, sought the extermination of the disease transmitting mosquito. The sanitary officers were untiring in their efforts and at all times they had the hearty cooperation of the courts. How well they have succeeded is known to the world. It has often been said

that the value to the world of the sanitary work done in the Canal Zone abundantly justifies every cent of expenditure made on the entire canal work and its auxiliaries.

PERMANENT FORM OF GOVERNMENT.

As the work of canal construction neared completion, and it became apparent that the most effective labor organization ever gathered together must be gradually disbanded, and the Canal Zone prepared for the commercial and naval uses by reason of which its construction was undertaken, representations were made to Congress as to the necessity for providing for a permanent form of government for the Canal Zone. What is known as the "Panama Canal Act" providing for the opening, maintenance, protection and operation of the Panama Canal and the sanitation and government of the Canal Zone was enacted by Congress and approved by the President on August 24, 1912. This was the first instance in which Congress attempted to enact comprehensive legislation relative to the Canal. This Act provided that the executive officer of the government of the Canal Zone should be a governor and such other officials as the President might designate. It abolished the existing courts in the Canal Zone and created in their stead magistrate courts with similar powers and a little greater jurisdiction than that theretofore exercised by the municipal courts of the Canal Zone. In the place of the existing circuit court the Canal Zone was made a district with a district judge, district attorney and marshal, appointed for terms of four years by the President by and with the advice and consent of the Senate. In the place of the Supreme Court of the Canal Zone the Act provided for an appeal from the District Court of the Canal Zone to the Circuit Court of Appeals of the Fifth Circuit of the United States, and to the Supreme Court of the United States in certain cases. A part of Section 9 of the Panama Canal Act is as follows:

"The Circuit Court of Appeals of the Fifth Circuit of the United States shall have jurisdiction to review, revise, modify, reverse, or affirm the final judgments and decrees of the District Court of the Canal Zone and to render such judgments as in the opinion of the said appellate court should

have been rendered by the trial court in all actions and proceedings in which the Constitution, or any statute, treaty, title, right, or privilege of the United States, is involved and a right thereunder denied, and in cases in which the value in controversy exceeds one thousand dollars, to be ascertained by the oath of either party, or by other competent evidence, and also in criminal causes wherein the offense charged is punishable as a felony. And such appellate jurisdiction, subject to the right of review by or appeal to the Supreme Court of the United States as in other cases authorized by law, may be exercised by said circuit court of appeals in the same manner, under the same regulations, and by the same procedure as nearly as practicable as is done in reviewing the final judgments and decrees of the district courts of the United States."

The Panama Canal Act recognized and confirmed as valid and binding all laws, orders, regulations and ordinances adopted and promulgated in the Canal Zone by order of the President for the government and sanitation of the Canal Zone and the construction of the Panama Canal.

The Panama Canal Act extends the right of trial by jury to all civil and criminal cases originating in the District Court of the Canal Zone on the demand of either party. The Panama Canal Act very carefully provides against placing the Canal Zone in the status of an organized territory of the United States, so that the general laws of the United States relative to territories do not apply to the Canal Zone.

Section 12 of the Panama Canal Act is as follows:

"That all laws and treaties relating to the extradition of persons accused of crime in force in the United States, to the extent that they may not be in conflict with or superseded by any special treaty entered into between the United States and the Republic of Panama with respect to the Canal Zone, and all laws relating to the rendition of fugitives from justice as between the several States and Territories of the United States, shall extend to and be considered in force in the Canal Zone, and for such purposes and such purposes only the Canal Zone shall be considered and treated as an organized territory of the United States."

The Act recognizes and enlarges the right of deportation vested in the executive officer of the Canal Zone.

Section 10 reads :

"That after the Panama Canal shall have been completed and opened for operation the Governor of the Panama Canal shall have the right to make such rules and regulations, subject to the approval of the President, touching the right of any person to remain upon or pass over any part of the Canal Zone as may be necessary."

It has always been recognized that the Canal and its defenses constitute an integral part of the defenses of the United States in the event of war. The Panama Canal Act makes provision for such an eventuality by centralizing and coördinating the work of the canal organization and such military forces as may be in the Canal Zone. Section 13 is as follows :

"That in time of war in which the United States shall be engaged, or when, in the opinion of the President, war is imminent, such officer of the Army, as the President may designate shall, upon the order of the President, assume and have exclusive authority and jurisdiction over the operation of the Panama Canal and all its adjuncts, appendants, and appurtenances, including the entire control and government of the Canal Zone, and during a continuance of such condition the governor of the Panama Canal shall, in all respects and particulars as to the operation of such Panama Canal, and all duties, matters, and transactions affecting the Canal Zone, be subject to the order and direction of such officer of the Army."

The act was not self executing, but authorized the President by executive order, when in his judgment the construction of the Panama Canal should have been sufficiently advanced towards completion, to discontinue the Isthmian Canal Commission together with the then existing organization. By Executive Order of the President, dated January 27, 1914, it was directed that the old organization be abolished and that the organization provided for in the Panama Canal Act should become effective April 1st, 1914. Since this date the Panama Canal and Canal Zone have been governed under the terms of this act.

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